

§ 5.203

(2) The holder's incompetence did not cause or contribute to a marine casualty; and

(3) The incompetence was reported to the Coast Guard by the individual or any other person and was not discovered as a result of a Federal, State, or local government investigation.

(d) Where the conditions of paragraphs (b) and (c) of this section are not met, the holder may only surrender such credential or endorsement in accordance with § 5.203.

[CGD 84-099, 52 FR 47535, Dec. 14, 1987, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

§ 5.203 Voluntary surrender to avoid hearing.

(a) Any holder may surrender a credential or endorsement to the Coast Guard in preference to appearing at a hearing.

(b) A holder voluntarily surrendering a credential or endorsement shall sign a written statement containing the stipulations that:

(1) The surrender is made voluntarily in preference to appearing at a hearing;

(2) All rights to the credential or endorsement surrendered are permanently relinquished; and,

(3) Any rights with respect to a hearing are waived.

(c) A voluntary surrender of a credential or endorsement to an investigating officer in preference to appearing at a hearing is not to be accepted by an investigating officer unless the investigating officer is convinced that the holder fully realizes the effect of such surrender.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

§ 5.205 Return or issuance of a credential or endorsement.

(a) A person may request the return of a voluntarily deposited credential or endorsement at any time, provided he or she can demonstrate a satisfactory rehabilitation or cure of the condition which caused the incompetence; has complied with any other conditions of the written agreement executed at the time of deposit; and complies with the physical and professional requirements

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for issuance of a credential or endorsement.

(b) Where the voluntary deposit is based on incompetence due to drug abuse, the deposit agreement shall provide that the credential or endorsement will not be returned until the person:

(1) Successfully completes a bona fide drug abuse rehabilitation program;

(2) Demonstrates complete non-association with dangerous drugs for a minimum of six months after completion of the rehabilitation program; and

(3) Is actively participating in a bona fide drug abuse monitoring program.

(c) Where the voluntary deposit is based on incompetence due to alcohol abuse, the deposit agreement shall provide that the credential or endorsement will not be returned until the person:

(1) Successfully completes a bona fide alcohol abuse rehabilitation program; and

(2) Is actively participating in a bona fide alcohol abuse monitoring program.

(d) The voluntary surrender of a credential or endorsement is the equivalent of revocation of such papers. A holder who voluntarily surrenders a credential or endorsement must comply with provisions of §§ 5.901 and 5.903 when applying for the issuance of a new credential or endorsement.

[CGD 84-099, 52 FR 47535, Dec. 14, 1987, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

Subpart F—Subpoenas

§ 5.301 Issuance of subpoenas.

(a) Every subpoena shall command the person to whom it is directed to appear at a specified time and place to give testimony or to produce books, papers, documents, or any other evidence, which shall be described with such particularity as necessary to identify what is desired.

(b) The investigating officer may issue subpoenas for the attendance of witnesses or for the production of books, papers, documents, or any other relevant evidence needed by the investigating officer or by the respondent.